



General Assembly

January Session, 2009

***Amendment***

LCO No. 8526

**\*SB0112708526SD0\***

Offered by:  
SEN. MCDONALD, 27<sup>th</sup> Dist.

To: Subst. Senate Bill No. 1127

File No. 721

Cal. No. 502

***"AN ACT CONCERNING THE APPLICABILITY OF CERTAIN STATE  
CONTRACTING NONDISCRIMINATION REQUIREMENTS."***

1 Strike sections 1 and 2 in their entirety and substitute the following  
2 in lieu thereof:

3 "Section 1. Section 4a-60 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) Every contract to which the state or any political subdivision of  
6 the state other than a municipality is a party shall contain the  
7 following provisions:

8 (1) The contractor agrees and warrants that in the performance of  
9 the contract such contractor will not discriminate or permit  
10 discrimination against any person or group of persons on the grounds  
11 of race, color, religious creed, age, marital status, national origin,  
12 ancestry, sex, mental retardation, mental disability or physical  
13 disability, including, but not limited to, blindness, unless it is shown  
14 by such contractor that such disability prevents performance of the

15 work involved, in any manner prohibited by the laws of the United  
16 States or of the state of Connecticut; [ The] and the contractor further  
17 agrees to take affirmative action to insure that applicants with job-  
18 related qualifications are employed and that employees are treated  
19 when employed without regard to their race, color, religious creed,  
20 age, marital status, national origin, ancestry, sex, mental retardation,  
21 mental disability or physical disability, including, but not limited to,  
22 blindness, unless it is shown by such contractor that such disability  
23 prevents performance of the work involved;

24 (2) [the] The contractor agrees, in all solicitations or advertisements  
25 for employees placed by or on behalf of the contractor, to state that it is  
26 an "affirmative action-equal opportunity employer" in accordance with  
27 regulations adopted by the commission;

28 (3) [the] The contractor agrees to provide each labor union or  
29 representative of workers with which such contractor has a collective  
30 bargaining agreement or other contract or understanding and each  
31 vendor with which such contractor has a contract or understanding, a  
32 notice to be provided by the commission advising the labor union or  
33 workers' representative of the contractor's commitments under this  
34 section, and to post copies of the notice in conspicuous places available  
35 to employees and applicants for employment;

36 (4) [the] The contractor agrees to comply with each provision of this  
37 section and sections 46a-68e and 46a-68f and with each regulation or  
38 relevant order issued by said commission pursuant to sections 46a-56,  
39 46a-68e and 46a-68f; and

40 (5) [the] The contractor agrees to provide the Commission on  
41 Human Rights and Opportunities with such information requested by  
42 the commission, and permit access to pertinent books, records and  
43 accounts, concerning the employment practices and procedures of the  
44 contractor as relate to the provisions of this section and section 46a-56.

45 (b) If the contract is a public works contract, the contractor agrees  
46 and warrants that he will make good faith efforts to employ minority

47 business enterprises as subcontractors and suppliers of materials on  
48 such public works project.

49 (c) (1) Prior to entering into [the] a contract valued at less than fifty  
50 thousand dollars for each year of the contract, the contractor shall  
51 provide the state or such political subdivision of the state with  
52 [documentation] a written representation that complies with the  
53 nondiscrimination agreement and warranty under subdivision (1) of  
54 subsection (a) of this section.

55 (2) Prior to entering into a contract valued at fifty thousand dollars  
56 or more for any year of the contract, such contractor shall provide the  
57 state or such political subdivision of the state with any one of the  
58 following:

59 (A) Documentation in the form of a company or corporate policy  
60 adopted by resolution of the board of directors, shareholders,  
61 managers, members or other governing body of such contractor [to  
62 support] that complies with the nondiscrimination agreement and  
63 warranty under subdivision (1) of [this] subsection (a) of this section;

64 (B) Documentation in the form of a company or corporate policy  
65 adopted by a prior resolution of the board of directors, shareholders,  
66 managers, members or other governing body of such contractor if (i)  
67 the prior resolution is certified by a duly authorized corporate officer  
68 of such contractor to be in effect on the date the documentation is  
69 submitted, and (ii) the head of the agency of the state or such political  
70 subdivision, or a designee, certifies that the prior resolution complies  
71 with the nondiscrimination agreement and warranty under  
72 subdivision (1) of subsection (a) of this section, or

73 (C) Documentation in the form of an affidavit signed under penalty  
74 of false statement by a chief executive officer, president, chairperson or  
75 other corporate officer duly authorized to adopt company or corporate  
76 policy that certifies that the company or corporate policy of the  
77 contractor complies with the nondiscrimination agreement and  
78 warranty under subdivision (1) of subsection (a) of this section and is

79 in effect on the date the affidavit is signed.

80 (d) For the purposes of this section, "contract" includes any  
81 extension or modification of the contract, [and] "contractor" includes  
82 any successors or assigns of the contractor, "marital status" means  
83 being single, married as recognized by the state of Connecticut,  
84 widowed, separated or divorced, and "mental disability" means one or  
85 more mental disorders, as defined in the most recent edition of the  
86 American Psychiatric Association's "Diagnostic and Statistical Manual  
87 of Mental Disorders", or a record of or regarding a person as having  
88 one or more such disorders. For the purposes of this section, "contract"  
89 does not include a contract where each contractor is (1) a political  
90 subdivision of the state, including, but not limited to, a municipality,  
91 (2) a quasi-public agency, as defined in section 1-120, (3) any other  
92 state, as defined in section 1-267, (4) the federal government, (5) a  
93 foreign government, or (F) an agency of a subdivision, agency, state or  
94 government described in subparagraph (1), (2), (3), (4) or (5) of this  
95 subsection.

96 [(b)] (e) For the purposes of this section, "minority business  
97 enterprise" means any small contractor or supplier of materials fifty-  
98 one per cent or more of the capital stock, if any, or assets of which is  
99 owned by a person or persons: (1) Who are active in the daily affairs of  
100 the enterprise, (2) who have the power to direct the management and  
101 policies of the enterprise, and (3) who are members of a minority, as  
102 such term is defined in subsection (a) of section 32-9n; and "good faith"  
103 means that degree of diligence which a reasonable person would  
104 exercise in the performance of legal duties and obligations. "Good faith  
105 efforts" shall include, but not be limited to, those reasonable initial  
106 efforts necessary to comply with statutory or regulatory requirements  
107 and additional or substituted efforts when it is determined that such  
108 initial efforts will not be sufficient to comply with such requirements.

109 [(c)] (f) Determination of the contractor's good faith efforts shall  
110 include but shall not be limited to the following factors: The  
111 contractor's employment and subcontracting policies, patterns and

112 practices; affirmative advertising, recruitment and training; technical  
113 assistance activities and such other reasonable activities or efforts as  
114 the commission may prescribe that are designed to ensure the  
115 participation of minority business enterprises in public works projects.

116 [(d)] (g) The contractor shall develop and maintain adequate  
117 documentation, in a manner prescribed by the commission, of its good  
118 faith efforts.

119 [(e)] (h) The contractor shall include the provisions of [subsection]  
120 subsections (a) and (b) of this section in every subcontract or purchase  
121 order entered into in order to fulfill any obligation of a contract with  
122 the state and such provisions shall be binding on a subcontractor,  
123 vendor or manufacturer unless exempted by regulations or orders of  
124 the commission. The contractor shall take such action with respect to  
125 any such subcontract or purchase order as the commission may direct  
126 as a means of enforcing such provisions including sanctions for  
127 noncompliance in accordance with section 46a-56; provided, if such  
128 contractor becomes involved in, or is threatened with, litigation with a  
129 subcontractor or vendor as a result of such direction by the  
130 commission, the contractor may request the state of Connecticut to  
131 enter into any such litigation or negotiation prior thereto to protect the  
132 interests of the state and the state may so enter.

133 Sec. 2. Section 4a-60a of the general statutes is repealed and the  
134 following is substituted in lieu thereof (*Effective from passage*):

135 (a) Every contract to which the state or any political subdivision of  
136 the state other than a municipality is a party shall contain the  
137 following provisions:

138 (1) The contractor agrees and warrants that in the performance of  
139 the contract such contractor will not discriminate or permit  
140 discrimination against any person or group of persons on the grounds  
141 of sexual orientation, in any manner prohibited by the laws of the  
142 United States or of the state of Connecticut, and that employees are  
143 treated when employed without regard to their sexual orientation;

144 (2) [the] The contractor agrees to provide each labor union or  
145 representative of workers with which such contractor has a collective  
146 bargaining agreement or other contract or understanding and each  
147 vendor with which such contractor has a contract or understanding, a  
148 notice to be provided by the Commission on Human Rights and  
149 Opportunities advising the labor union or workers' representative of  
150 the contractor's commitments under this section, and to post copies of  
151 the notice in conspicuous places available to employees and applicants  
152 for employment;

153 (3) [the] The contractor agrees to comply with each provision of this  
154 section and with each regulation or relevant order issued by said  
155 commission pursuant to section 46a-56; and

156 (4) [the] The contractor agrees to provide the Commission on  
157 Human Rights and Opportunities with such information requested by  
158 the commission, and permit access to pertinent books, records and  
159 accounts, concerning the employment practices and procedures of the  
160 contractor which relate to the provisions of this section and section  
161 46a-56.

162 (b) (1) Prior to entering into [the] a contract valued at less than fifty  
163 thousand dollars for each year of the contract, the contractor shall  
164 provide the state or such political subdivision of the state with  
165 [documentation] a written representation that complies with the  
166 nondiscrimination agreement and warranty under subdivision (1) of  
167 subsection (a) of this section.

168 (2) Prior to entering into a contract valued at fifty thousand dollars  
169 or more for any year of the contract, such contractor shall provide the  
170 state or such political subdivision of the state with any of the  
171 following:

172 (A) Documentation in the form of a company or corporate policy  
173 adopted by resolution of the board of directors, shareholders,  
174 managers, members or other governing body of such contractor [to  
175 support] that complies with the nondiscrimination agreement and

176 warranty under subdivision (1) of [this] subsection (a) of this section;

177 (B) Documentation in the form of a company or corporate policy  
178 adopted by a prior resolution of the board of directors, shareholders,  
179 managers, members or other governing body of such contractor if (i)  
180 the prior resolution is certified by a duly authorized corporate officer  
181 of such contractor to be in effect on the date the documentation is  
182 submitted, and (ii) the head of the agency of the state or such political  
183 subdivision, or a designee, certifies that the prior resolution complies  
184 with the nondiscrimination agreement and warranty under  
185 subdivision (1) of subsection (a) of this section, or

186 (C) Documentation in the form of an affidavit signed under penalty  
187 of false statement by a chief executive officer, president, chairperson or  
188 other corporate officer duly authorized to adopt company or corporate  
189 policy that certifies that the company or corporate policy of the  
190 contractor complies with the nondiscrimination agreement and  
191 warranty under subdivision (1) of subsection (a) of this section and is  
192 in effect on the date the affidavit is signed.

193 (3) For the purposes of this section, "contract" includes any  
194 extension or modification of the contract, and "contractor" includes any  
195 successors or assigns of the contractor. For the purposes of this section,  
196 "contract" does not include a contract where each contractor is (A) a  
197 political subdivision of the state, including, but not limited to, a  
198 municipality, (B) a quasi-public agency, as defined in section 1-120, (C)  
199 any other state, as defined in section 1-267, (D) the federal government,  
200 (E) a foreign government, or (F) an agency of a subdivision, agency,  
201 state or government described in subparagraph (A), (B), (C), (D) or (E)  
202 of this subdivision.

203 [(b)] (c) The contractor shall include the provisions of subsection (a)  
204 of this section in every subcontract or purchase order entered into in  
205 order to fulfill any obligation of a contract with the state and such  
206 provisions shall be binding on a subcontractor, vendor or  
207 manufacturer unless exempted by regulations or orders of the

208 commission. The contractor shall take such action with respect to any  
209 such subcontract or purchase order as the commission may direct as a  
210 means of enforcing such provisions including sanctions for  
211 noncompliance in accordance with section 46a-56; provided, if such  
212 contractor becomes involved in, or is threatened with, litigation with a  
213 subcontractor or vendor as a result of such direction by the  
214 commission, the contractor may request the state of Connecticut to  
215 enter into any such litigation or negotiation prior thereto to protect the  
216 interests of the state and the state may so enter."

217 Change the effective date of section 3 to "Effective from passage"